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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,660	11/12/2003	Gilbert Madrid	ENDOLOG.028C2	7268

20995 7590 05/16/2008  
KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE, CA 92614

EXAMINER
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BOUCHELLE, LAURA A

ART UNIT	PAPER NUMBER
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3763

NOTIFICATION DATE	DELIVERY MODE
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05/16/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/706,660	<b>Applicant(s)</b> MADRID ET AL.	
	<b>Examiner</b> LAURA A. BOUCHELLE	<b>Art Unit</b> 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 24-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/25/08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response to Amendment***

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 24, 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer (US 5135535) in view of Martin et al (US 5472417) in view of McInnes et al (US 6451043). Kramer discloses a catheter having a first lumen 12 extending through the length of the catheter having an open proximal access port and an open distal access port 22, a second lumen 14 extending between a proximal and distal port 17, wherein the distal port is spaced proximally apart from the distal end and includes a distal extension of the lumen and a proximal port 15 including a proximal extension of the lumen. See Fig. 1. Kramer discloses that the lumen configuration may be used in a variety of diagnostic and therapeutic procedures and does not necessarily include a balloon (Col. 7, lines 47-59). The device includes a slit in the catheter wall. The ports are formed by cutouts.
3. Claim 24 differs from Kramer in calling for the distal extension to be occluded from the rest of the lumen. Martin teaches a catheter having a port 45 near the distal end and an extension of the lumen extending beyond the port, wherein the distal extension is occluded by a plug 60 to prevent blood from pooling and clotting in the area distal of the port. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Kramer to include an occlusion of the distal extension as taught by Martin to prevent blood from

Art Unit: 3763

entering the area and clotting which could possibly cause serious complications if it were to reenter the bloodstream.

4. Claim 24 further differs from Martin in calling for the proximal lumen extension to be occluded from the remaining portion of the second lumen. McInnes teaches a catheter having a second lumen that is occluded by a plug 28 and extends proximally from a port 17 to prevent fluids from passing back through the second lumen. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Martin to have the second lumen extend proximally beyond a plug as taught by McInnes to prevent fluid from flowing back through the second lumen.

5. Claims 25, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer in view of Martin in view of McInnes as applied to claim 24 above, and further in view of Ha et al (US 6159195). Claims 25, 26 differ from the teachings above in calling for the catheter to have a reinforcing braided wire. Ha teaches an exchange catheter having a braided wire reinforcement member to provide adequate stiffness for axial push while maintaining enough softness to prevent injury to the patient (Col. 7, lines 25-40). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Kramer in view of Martin in view of McInnes to have a braided reinforcement as taught by Ha to provide adequate axial stiffness while maintaining enough flexibility to avoid injuring the patient.

***Response to Arguments***

6. Applicant's arguments with respect to claims 24-32 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA A. BOUCHELLE whose telephone number is (571)272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura A Bouchelle  
Examiner  
Art Unit 3763

/L. A. B./  
Examiner, Art Unit 3763

/Nicholas D Lucchesi/  
Supervisory Patent Examiner, Art Unit 3763